

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Implementation of the Local Competition  
Provisions in the Telecommunications Act  
of 1996

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CC Docket No. 96-98

**WORLDCOM REPLY COMMENTS**

WorldCom, Inc. (WorldCom) hereby submits its reply to comments on the  
WorldCom Petition for Waiver of the Supplemental Order Clarification,<sup>1</sup> filed  
September 12, 2000 in the above-captioned proceeding.

**I. WorldCom Has Demonstrated Special Circumstances**

The ILECs' suggestion that the relief sought by WorldCom represents *de facto*  
reconsideration of the Supplemental Order Clarification is meritless. As is required by  
applicable precedent,<sup>2</sup> WorldCom has demonstrated that the characteristics of its  
network represent "special circumstances" warranting a limited waiver of the  
Supplemental Order Clarification's provisions.

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<sup>1</sup>Implementation of the Local Competition Provisions of the Telecommunications  
Act of 1996, Supplemental Order Clarification, CC Docket No. 96-98, released June 2,  
2000.

<sup>2</sup>Northeast Cellular Tel. Co. v. FCC, 897 F.2d 1164 (D.C. Cir. 1990); WAIT  
Radio v. FCC, 418 F.2d 1153 (1969).

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First, WorldCom has provided record evidence to show that it is able to identify exclusively local circuits by the fact that they terminate at a WorldCom Class 5 switch.<sup>3</sup> The characteristics and capabilities of WorldCom's network thus differ substantially from the general case considered in the Supplemental Order Clarification, when the Commission concluded that it could not assume, as a general matter, that every circuit that terminates in a certain type of switch is being used exclusively for local traffic.<sup>4</sup>

Second, WorldCom has demonstrated that compliance with any of the three safe harbor options outlined in the Supplemental Order Clarification would represent a special hardship for WorldCom. Because WorldCom's network has been configured to take advantage of the scale economies inherent in WorldCom's position as the nation's second largest long-distance carrier and one of the largest facilities-based CLECs, it leases a great many DS-3 trunks and multiplexers that carry both dedicated access and local traffic. For the reasons discussed in WorldCom's waiver petition, this network architecture would require WorldCom to reconfigure and rehome its exclusively local circuits in order to qualify for any of the Supplemental Order Clarification's three safe harbor options -- significantly disrupting customers' service and imposing significant costs on WorldCom.

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<sup>3</sup>These circuits can be identified, in the specific case of WorldCom's network, because (1) WorldCom's Class 5 switches are used only to provide switched local products that compete directly with the ILECs' local exchange offerings; (2) WorldCom's Class 5 switches are not used to provide dedicated access services; and (3) WorldCom's Class 5 switches will not be used to offer dedicated access services. As a result, WorldCom can use its billing and ordering systems to identify exclusively local circuits by the fact that they terminate at a WorldCom Class 5 switch.

<sup>4</sup>Supplemental Order Clarification at ¶ 25.

Nothing in the ILECs' comments calls into question WorldCom's demonstration of special circumstances. Significantly, the ILECs do not dispute WorldCom's ability to identify local circuits by their termination at a Class 5 switch. Nor do they dispute WorldCom's showing that these facilities carry only local exchange and switched access service. And they do not dispute WorldCom's showing that WorldCom's Class 5 switches are not configured to provide dedicated access-based services, and cannot be reconfigured to provide such services.

BellSouth's suggestion<sup>5</sup> that WorldCom could circumvent the use restriction by offering a "WATS-like" service that consisted exclusively of switched access reflects a misunderstanding of WorldCom's network architecture. As the Zipp-Sigle Declaration attached to WorldCom's waiver petition shows, WorldCom does not offer exclusively interexchange services of the type described by BellSouth using its Class 5 switches. Nor, for the reasons described in that declaration, will WorldCom use its Class 5 switches to provide such services.<sup>6</sup>

Similarly without merit is the ILECs' contention that the characteristics of WorldCom's network do not constitute "special circumstances" because WorldCom's network architecture is similar to that of other CLECs. Even if it were true that certain CLECs use network architectures that are superficially similar to that employed by WorldCom, it is well-established that an applicant for a waiver need not show special

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<sup>5</sup>BellSouth Comments at 3.

<sup>6</sup>Zipp-Sigle Declaration at ¶ 11.

hardship that is unique in kind.<sup>7</sup> Rather, “[s]pecial circumstances that are unique in degree may justify a waiver if the waiver will serve the public interest.”<sup>8</sup> In this case, WorldCom has demonstrated that reconfiguring its network to take advantage of the Supplemental Order Clarification’s safe harbor options would represent a special hardship that is unique in degree. As WorldCom explained in its waiver petition, the fact that WorldCom is not only a CLEC but is also an IXC has resulted in a network that, as currently configured, is unlikely to satisfy any of the three safe harbor options -- even though WorldCom leases approximately 20,000 exclusively local DS-1s.<sup>9</sup> By contrast, a smaller “pure” CLEC that has a superficially similar network, but does not have extensive long distance operations (such as the four CLECs that assisted in developing the three safe harbor options), is much more likely to have a network that already qualifies for one of the options or could qualify for one of the options with only minimal reconfiguration.<sup>10</sup>

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<sup>7</sup>NYNEX Telephone Companies Petition for a Waiver, Memorandum Opinion and Order, 10 FCC Rcd 7445, 7457 (1995).

<sup>8</sup>Id.

<sup>9</sup>Waiver Petition at 10-17.

<sup>10</sup>For example, a pure CLEC without extensive long distance operations could perhaps satisfy Option 3, which requires that every DS-1 circuit multiplexed onto a DS-3 carry some local traffic. Because of WorldCom’s extensive long distance operations, it is unlikely that many of the DS-3s in WorldCom’s network would meet this requirement; a WorldCom DS-3 might carry a few local DS-1s, but many more dedicated access DS-1s. To take advantage of Option 3, WorldCom would have to reconfigure its network so that a DS-3 carried only local DS-1s. As WorldCom explained in its waiver petition (at 11-12), such reconfiguration would result in customers needlessly losing dialtone and WorldCom incurring unnecessary nonrecurring costs.

## **II. The Supplemental Order Clarification Does Not Place Restrictions on the Use of Unbundled Loop-Transport Combinations for Switched Access**

Having conceded that the circuits that are the subject of WorldCom's waiver petition carry no dedicated access traffic, the ILECs attempt to manufacture a restriction on the use of unbundled loop-transport combinations for switched access traffic. They argue that the Commission should prohibit conversion of WorldCom's exclusively local circuits simply because these circuits carry switched access traffic in addition to local exchange traffic.<sup>11</sup>

The ILECs' argument is absurd. The sole purpose of the Supplemental Order's "use restriction" is to prevent the conversion of dedicated access services to unbundled loop-transport combinations. The Commission stated, in particular, that the purpose of the "significant amount of local exchange service" requirement is to ensure that a carrier "is not seeking to use unbundled loop-transport combinations solely to bypass tariffed special access service."<sup>12</sup>

The ILECs themselves have, until now, never advocated that the Commission restrict CLECs' ability to use unbundled loop-transport combinations to provide switched access service in conjunction with local exchange service. Throughout this proceeding, the ILECs' advocacy has focused exclusively on restricting the conversion of tariffed special access services when such services are used for dedicated access,

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<sup>11</sup>See, e.g., BellSouth Comments at 2; Verizon Opposition at 3-4.

<sup>12</sup>Supplemental Order Clarification at ¶ 21.

which the ILECs have defined as “traditional special access services,”<sup>13</sup> or “the direct, unswitched transmission of nonlocal traffic between an end user and a carrier’s point of presence.”<sup>14</sup> As AT&T points out in its comments, “the circuits that would be covered by [WorldCom’s petition] are not even among those about which the ILECs raised concerns.”<sup>15</sup>

Far from placing restrictions on requesting carriers’ ability to use EELs to provision switched access in conjunction with local exchange service, Commission policy clearly supports such use. As the Commission has noted, the provision of switched access is a byproduct of the provision of local exchange service.<sup>16</sup> Because switched access is dependent on the offering of local exchange service, and the Supplemental Order Clarification gives CLECs the right to obtain unbundled loop-transport combinations to provide local exchange service, it is clear that the Supplemental Order Clarification gives CLECs the right to offer both switched access and local exchange service over unbundled loop-transport combinations.

Contrary to Verizon’s claim,<sup>17</sup> the fact that the safe harbor options require measurements of calling within a local area does not demonstrate a Commission policy

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<sup>13</sup>SBC Comments, CC Docket No. 96-98, January 19, 2000.

<sup>14</sup>U S West Comments, CC Docket No. 96-98, January 19, 2000.

<sup>15</sup>AT&T Comments at 5.

<sup>16</sup>Local Competition Order, 11 FCC Rcd at 15679, ¶ 357 (“[I]f there is a single loop dedicated to the premises of a particular customer and that customer requests both local and long distance service, then any interexchange carrier purchasing access to that customer’s loop will have to offer both local and long distance services.”)

<sup>17</sup>Verizon Opposition at 4.

to restrict the use of EELs for switched access. The safe harbor options' local traffic measurements are merely the tool that the safe harbor options use to determine whether "a requesting carrier has taken affirmative steps to provide local exchange service."<sup>18</sup> By demonstrating that all activated channels on all circuits terminating at WorldCom Class 5 switches carry exclusively local traffic, WorldCom is providing equally conclusive evidence that WorldCom "has taken affirmative steps to provide local exchange service." Given that the Supplemental Order Clarification permits CLECs that have demonstrated the necessary "affirmative steps" to offer local exchange services (including switched access) over unbundled loop-transport combinations, there is no basis for restricting WorldCom -- which has made an equivalent demonstration of "affirmative steps" -- from offering local exchange services (including switched access) over unbundled loop-transport combinations.

### **III. Grant of WorldCom's Petition is in the Public Interest**

It is well-established that waiver is appropriate if special circumstances warrant deviation from the general rule and such deviation would better serve the public interest than would strict adherence to the general rule.<sup>19</sup> In this case, it is clear that the requested waiver better serves the public interest than strict adherence to the rules.

#### **A. Grant of the Waiver Would Intensify Local Competition**

Grant of the relief sought in WorldCom's waiver petition would better serve the public interest because it would permit WorldCom -- one of the nation's largest CLECs -

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<sup>18</sup>See Supplemental Order Clarification at ¶ 21.

<sup>19</sup>Northeast Cellular Tel. Co. v. FCC, 897 F.2d at 1166.

- to intensify competition in the local exchange market. By reducing the cost of one of the key components of WorldCom's local network, TELRIC pricing of loop-transport combinations would allow WorldCom to compete more intensively in a price-conscious market. By contrast, strict enforcement of the existing rules would require WorldCom to continue paying the ILECs' inflated interstate access rates on the approximately 20,000 DS-1 circuits that it currently leases from ILECs to provide exclusively local service.

It is absurd for the ILECs to suggest<sup>20</sup> that WorldCom should be required to reconfigure its network in order to obtain unbundled loop-transport combinations. As WorldCom has explained, WorldCom would likely be able to "fit" within one of the three safe harbor options only if it re-homed (i.e., disconnected and reinstalled) thousands of local circuits. It would be contrary to the public interest for the Commission to require WorldCom to disrupt its customers' service and to incur unnecessary nonrecurring costs in order to obtain unbundled element pricing, particularly since the ILECs themselves freely carry all types of traffic on high-capacity transport pipes.

**B. Grant of the Waiver Poses No Risk to Universal Service**

The stated goal of the Supplemental Order Clarification is to ensure that loop-transport combinations are available for the provision of local exchange services, while at the same time avoiding "a reduction in contributions to universal service"<sup>21</sup> or "undercut[ting] the market position of many facilities-based competitive access

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<sup>20</sup>See, e.g., Qwest Comments at 3-4.

<sup>21</sup>Supplemental Order Clarification at ¶ 7.



providers.<sup>22</sup> Grant of WorldCom's waiver request is fully consistent with these objectives.

The Commission should ignore the ILECs' wild claims that grant of WorldCom's waiver request would somehow result in wholesale conversions of access circuits or "prematurely undercut universal service funding."<sup>23</sup> WorldCom has carefully limited the scope of its waiver request to encompass only those circuits that carry exclusively local traffic on all activated channels. And, contrary to SBC's misconception,<sup>24</sup> WorldCom has excluded from its waiver request all remaining access multiplexing and access transport services that are connected to these exclusively local circuits. WorldCom is not seeking to "pro-rate" or "ratchet" these components in any way. As AT&T notes, this aspect of WorldCom's proposal further protects the ILECs from significant economic harm.<sup>25</sup>

WorldCom's experience in Florida, where the state commission has granted WorldCom relief comparable to that sought by WorldCom in its waiver petition, demonstrates the limited impact that grant of WorldCom's petition would have on the ILECs. In Florida, WorldCom projects that exclusively local DS-1s represent approximately 20 percent of the DS-1s that WorldCom currently purchases from BellSouth's special access tariff. Given that unbundled element pricing in Florida is

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<sup>22</sup>Id., ¶ 18.

<sup>23</sup>See, e.g., BellSouth Comments at 2.

<sup>24</sup>SBC Opposition at 6-7.

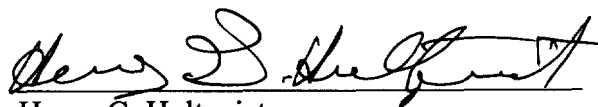
<sup>25</sup>AT&T Comments at 5.

approximately 50 percent below the tariffed special access rate, conversion of WorldCom's circuits will reduce the revenues that BellSouth receives from WorldCom for DS-1s by no more than 10 percent. And, because DS-1s represent only a portion of WorldCom's special access purchases, the overall reduction in the special access revenues that BellSouth receives from WorldCom will be substantially less than 10 percent. To put matters in perspective, the ILECs' interstate special access revenues have been growing by about 25 percent per year.<sup>26</sup>

#### **IV. Conclusion**

For the reasons stated herein, the Commission should grant WorldCom's petition for waiver of the Supplemental Order Clarification.

Respectfully submitted,  
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October 10, 2000

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<sup>26</sup>Compare 1999 Statistics of Communications Common Carriers, Table 2.9 (\$7.2 billion in special access revenues) to 1998 SOCC (\$5.7 billion in special access revenues).

## **Certificate of Service**

I, Vivian Lee, do hereby certify that copies of the foregoing Reply Comments of WorldCom, Inc. In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 were sent via first class mail, postage paid, to the following on this 10th day of October, 2000.

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